

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

PATRICK K. MCDONNELL,
and CABBAGETECH, CORP. d/b/a COIN
DROP MARKETS,

Defendants.

Case No. 18-CV-00361 (JBW) (RLM)

**NOTICE OF MOTION TO DISMISS FOR
INSUFFICIENT EVIDENCE**

PLEASE TAKE NOTICE that Defendant Patrick K. McDonnell respectfully moves the Court to dismiss Plaintiff COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF AND FOR CIVIL MONETARY PENALTIES UNDER THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS as it bears insufficient evidence required by law to satisfy the burden of proof in a criminal proceeding, *which this case allegedly and clearly reads as*, in Complaint allegations/language discussed throughout.

MAY THE COURT RECOGNIZE; Plaintiff has incorrectly filed what *alleges* and *appears* to be a criminal proceeding wrongfully placed as a civil action with this Court. Plaintiff Complaint and discussions describe alleged crimes and should be tried criminal vs civil. Plaintiff must prove Defendant guilty “*beyond reasonable doubt*” and not by “*preponderance of evidence*” in trying a criminal case respectively. Plaintiff Complaint is improperly placed with this Court operating outside scope of their civil jurisdictional authority meriting complete and full dismissal of all claim(s) alleged.

Basis for Defendant Motion set forth in the accompanying **MEMORANDUM OF LAW**.

Defendant again, moves the Court to dismiss Plaintiff Complaint and alleged Count(s) ‘with prejudice’ on the grounds; **Insufficient Evidence Lacking Burden Of Proof For Criminal Proceeding; Subject-matter jurisdiction** (pursuant to Rule 12 (b)(1), Fed. R. Civ. P.) and/or **Personal jurisdiction** (pursuant to Rule 12 (b)(2), Fed. R. Civ. P.) and **Failure to state a claim upon relief can be granted** (pursuant to Rule 12 (b)(6), Fed. R. Civ. P.)

In support of this **MOTION TO DISMISS**, Defendant submits the following documents;

1. defendant declaration in support of motion to dismiss
2. memorandum of law in support of motion to dismiss

July 16, 2018

Respectfully Submitted,

/s/ Patrick K. McDonnell

Defendant/Pro Se

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